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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,154	04/16/2004	Stefan Hubert	VO-669	8580
7590 05/24/2005 Pauley Petersen & Erickson 2800 W. Higgins Road, Suite 365 Hoffman Estates, IL 60195			EXAMINER TON, ANABEL	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/826,154

Applicant(s)

HUBERT ET AL.

Examiner

Anabel M. Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the profiled rail and door opening (no door is shown) must be shown or the feature(s) canceled from the claim(s) (applicant shows reference numeral 30 pointing to the lens and a profiled rail is not readily apparent from the drawings). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recites "an illumination device integrated one of entirely into and into at least a partial area of the bracket". It is unclear what applicant is intending to define by this statement. Because of their dependency, claims 2-10, 12-18 are necessarily rejected.

4. Claims 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recites "for holding the support shelf is one of displaceable along the profiles rail and fixable place on the profiles rail". It is unclear what applicant is trying to define by this statement

- As best understood the following rejection applies

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2875

2. Claims 1-2,14-16,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Saraiji (6,179,434).

Saraiji discloses the lighting arrangement having an illuminating device (95) integrated into at least a partial area (fig 3) of the bracket (99).

- The illuminating device includes a fluorescent tube;(col. 4 line 56-57)
- At least a partial area of the bracket is embodied as an illumination device (fig 3);
- At least a partial area (20) of the bracket (14) is embodied as an optical waveguide (90,84) into which light from a light source (24) is introduced (84,90)
- The light source (24) is arranged outside of the interior (12) of the household appliance (Fig 1);
- The bracket has a profiled rail mounted in the interior (23) of the household appliance and extends substantially vertically (Fig 1) a support element for holding the support shelf (63) fixable in place on the profiled rail and the illuminating device is on at least a partial area of the profiled rail (fig 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-13,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saraiji.

Saraiji discloses the claimed invention except for the recitation of the light-emitting device being a plurality of light-emitting diodes forming of an LED array. The examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of Saraiji. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

- Saraiji discloses a filter device (83) attached to the lighting device. With regards to the filter device being designed in a color, so that emitted light appears in a corresponding color, and a portion of the bracket embodied as an optical waveguide is of a colored transparent material, it would have been obvious to one of ordinary skill in the art at the time the invention was made to color the filter and the waveguide since it has been held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).
- At least a partial area of the bracket is embodied as an illumination device (fig 3);

- At least a partial area (20) of the bracket (14) is embodied as an optical waveguide (22) into which light from a light source (24) is introduced (84,90)
- The light source (24) is arranged outside of the interior (12) of the household appliance (Fig 1);
- A coupling element (81) is arranged between the light source and the optical waveguide for introducing the light from the illuminating device (Fig 3).
-

Allowable Subject Matter

5. Claims 11 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach the bracket having a profiled rail mounted in the interior of the device and extends substantially vertically, a support element for holding the support shelf, the illuminating device is on at least a partial area of the profiled rail.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ter-Hovhannisian et al, Saraiji et al '017, Upton et al.

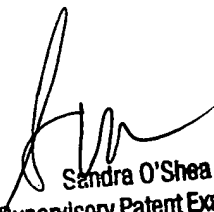
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT


Sandra O'Shea
Supervisory Patent Examiner
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